

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Lawrence Valentine,

5 Petitioner

6 v.

7 State of Nevada, et al.,

8 Respondents  
9

2:17-cv-02032-JAD-PAL

**Order**

[ECF Nos. 1-1, 6, 7]

10 Petitioner Lawrence Valentine is serving a state-court sentence at the High Desert State  
11 Prison. He seeks release from custody, and he initiates this action by moving for “judgment nisi  
12 and a nil dicit default judgment and judgment quod billa cassetur and judgment of dismissal of  
13 the judgment of conviction.”<sup>1</sup> These latin phrases are not appropriate vehicles to request the  
14 relief he desires. Valentine can only obtain the relief he seeks by filing a petition for a writ of  
15 habeas corpus. If he chooses to file a habeas petition, he must do so on the court’s form, and he  
16 will need to name the warden of the High Desert State Prison as the respondent.

17 Valentine also moves for a temporary restraining order<sup>2</sup> and a preliminary injunction.<sup>3</sup> He  
18 asks the court to order the prison to let him have eye surgery at a facility outside of the prison.  
19 This is a claim regarding the conditions of Valentine’s confinement, not the validity of his  
20 confinement. “Habeas corpus proceedings are the proper mechanism for a prisoner to challenge  
21 the ‘legality or duration’ of confinement. A civil rights action, in contrast, is the proper method  
22 of challenging ‘conditions of . . . confinement.’”<sup>4</sup> Valentine will need to bring his eye-surgery  
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24 <sup>1</sup> ECF No. 5 at 11.

25 <sup>2</sup> ECF No. 6.

26 <sup>3</sup> ECF No. 7.

27 <sup>4</sup> *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (quoting *Preiser v. Rodriguez*, 411 U.S. 475,  
28 484, 498–99 (1973)).

1 claims in a separate civil-rights action under 42 U.S.C. § 1983 for the relief he is requesting to be  
2 considered. I do not, however, make any statement as to whether Valentine can satisfy the  
3 procedural requirements for such an action or injunctive relief.

4 Accordingly, the **Clerk of Court is directed to file** the motion for judgment nisi, nil dicit  
5 default judgment, judgment quod billa cassetur, and judgment of dismissal of the judgment of  
6 conviction.

7 IT IS FURTHER ORDERED that the motion for judgment nisi, nil dicit default  
8 judgment, judgment quod billa cassetur, and judgment of dismissal of the judgment of conviction  
9 [ECF No. 1-1] is **DENIED**.

10 IT IS FURTHER ORDERED that the motion for a temporary restraining order [ECF No.  
11 6] is **DENIED**.

12 IT IS FURTHER ORDERED that the motion for a preliminary injunction [ECF No. 7] is  
13 **DENIED**.

14 The **Clerk of Court is directed to SEND** Valentine a **petition for a writ of habeas**  
15 **corpus** under 28 U.S.C. § 2254 **form with instructions**. Valentine has until November 3, 2017,  
16 to file a petition for a writ of habeas corpus. If he files a habeas petition, **Valentine must write**  
17 **on it** the case number, 2:17-cv-02032-JAD-PAL. This November 3, 2017, deadline or any  
18 extension of that deadline does not signify any implied finding of a basis for tolling during the  
19 time period established. Valentine at all times remains responsible for calculating the running of  
20 the federal limitation period under 28 U.S.C. § 2244(d)(1) and timely asserting claims. **Failure**  
21 **to comply with this order will result in the dismissal of this action**.

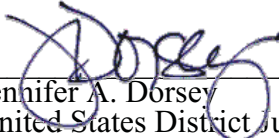
22 The **Clerk of Court is also directed to SEND** Valentine a blank form for **an application**  
23 **to proceed *in forma pauperis*, a blank form for a civil rights complaint under 42 U.S.C. §**  
24 **1983, and any associated instruction sheets**. Valentine must use these forms if he chooses to  
25 commence a new action and properly raise the same issues that he raised in his motions for a  
26 temporary restraining order and preliminary injunction.

27 The **Clerk of Court is directed to ADD Adam Laxalt, Attorney General for the State**  
28 **of Nevada, as counsel for respondents, and to SERVE upon respondents a copy of the**

1 **motion for judgment nisi, nil dicit default judgment, judgment quod billa cassetur, and**  
2 **judgment of dismissal of the judgment of conviction [ECF No. 1-1] and this order.**

3 Respondents' counsel must enter a notice of appearance herein within 20 days of entry of this  
4 order, but no further response is required from respondents at this time.

5 DATED: October 3, 2017.

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8 Jennifer A. Dorsey  
9 United States District Judge  
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